

1 **Education Cabinet**

2 **Kentucky Board of Education**

3 **Department of Education**

4 **(Amendment)**

5 **707 KAR 1:360. Confidentiality of information.**

6 RELATES TO: KRS 157.200, 157.220, 157.224, 157.226, 157.230, 157.250, 157.260,
7 157.270, 157.280, 157.285, 157.290, 157.360, 158.030, 158.100, 158.150, 160.290, 20
8 U.S.C. § 1221(e), 20 U.S.C. § 1400-1419, 34 CFR 300.1-300.662.

9 STATUTORY AUTHORITY: KRS 156.070(1), 156.160, 157.220, 157.224, 157.260,
10 and 167.015.

11 NECESSITY, CONFORMITY, AND FUNCTION: KRS 157.200 to 157.290 establish
12 the statutory framework for special education programs in local school districts. KRS
13 157.220 mandates that the Kentucky Board of Education adopt rules and administrative
14 regulations to generally carry out these programs. KRS 156.035 sets forth the authority
15 of the Kentucky Board of Education to implement any act of Congress appropriating
16 funds to the state and to provide for the proper apportionment and disbursement of these
17 funds in accordance with state and federal laws. 20 U.S.C. 1400 et.seq. and 34 C.F.R.
18 Part 300 require that policies and procedures be adopted to assure the apportionment and
19 disbursement of federal funds for exceptional children programs in accordance with
20 applicable laws. This administrative regulation establishes requirements ensuring
21 confidentiality of information maintained by school districts regarding children with

1 disabilities.

2 Section 1. Access rights. (1) A LEA shall permit a parent to inspect and review any
3 education records relating to his child that are collected, maintained, or used by the LEA.
4 The LEA shall comply with a request without unnecessary delay and before any ARC
5 meeting, dispute resolution meeting, or due process hearing and in no case more than
6 forty-five (45) days after the request has been made.

7 (2) The right to inspect and review education records under this administrative regulation
8 shall include:

9 (a) the right to a response from the LEA to reasonable requests for explanations and
10 interpretations of the records;

11 (b) the right to request that the agency provide copies of the records containing the
12 information if failure to provide those copies would effectively prevent the parent from
13 exercising the right to inspect and review the records; and

14 (c) the right to have a representative of the parent inspect and review the records.

15 (3) An LEA may presume that a parent has authority to inspect and review records
16 relating to his child unless the LEA has been advised under a court order that the parent
17 does not have the authority.

18 Section 2. Record of access. A LEA shall keep a record of parties obtaining access to
19 education records collected, maintained, or used under 707 KAR Chapter 1(except access
20 by parents and authorized employees of the LEA), including:

21 (1) the name of the party;

22 (2) the date access was given; and

23 (3) the purpose for which the party is authorized to use the records.

1 Section 3. Records on more than one child. If any education record includes information
2 on more than one child, the parents of those children shall have the right to inspect and
3 review only the information relating to their child or to be informed of only that specific
4 information.

5 Section 4. Types and location of information. A LEA shall provide parents on request a
6 list of the types and location of education records regarding their child with disabilities
7 that is collected, maintained, or used by the LEA.

8 Section 5. Fees. (1) A LEA may charge a fee for copies of records that are made for a
9 parent under 707 KAR Chapter 1 if the fee does not effectively prevent the parent from
10 exercising his right to inspect and review the records.

11 (2) The LEA shall not charge a fee to search for or to retrieve information under 707
12 KAR Chapter 1.

13 Section 6. Amendment of records and opportunity for hearing. (1) A parent who
14 believes that information in the education records collected, maintained, or used under
15 707 KAR Chapter 1 is inaccurate, misleading, or violates the privacy or other rights of
16 the child may request the LEA to amend the information. Once a request is made by a
17 parent for an amendment to be made to the child's record, the LEA shall respond within a
18 reasonable period of time.

19 (2) If a request to amend the information is made by a parent or legal guardian, the
20 hearing procedures contained in 702 KAR 1: 140 shall apply.

21 Section 7. Consent. (1) Except as to disclosures to appropriate law enforcement agencies
22 as referenced in 707 KAR 1:340, Section 12, parental consent shall be obtained before
23 personally identifiable student information is:

(a) disclosed to anyone other than officials of the participating agencies collecting or using the information under 707 KAR Chapter 1; or

(b) used for any purpose other than meeting a requirement under 707 KAR Chapter 1.

2) A LEA shall not release information from education records to participating agencies without parental consent unless authorized to do so under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. Section 1232g.

(3) If a parent refuses to provide consent for release of personally identifiable information, a party may request a due process hearing under the provision of 707 KAR 1:340 or comply with the FERPA.

Section 8. Safeguards. (1) A LEA shall protect the confidentiality of personally identifiable student information at collection, storage, disclosure, and destruction stages.

(2) A LEA shall assign a staff member to assume responsibility for ensuring the confidentiality of any personally identifiable student information.

(3) A LEA employee collecting or using personally identifiable information shall receive training or instruction regarding 707 KAR 1:360.

(4) A LEA shall maintain, for public inspection, a current listing of the names and positions of employees within the LEA who may have access to personally identifiable student information.

Section 9. Destruction of information. A LEA shall inform the parent when personally identifiable student information collected, maintained, or used under 707 KAR Chapter 1 is no longer needed to provide education services to a child. The information shall be destroyed at the request of a parent. However, a permanent record of a child's name, address, and phone number, his grades, attendance record, classes attended, grade level

1 completed, and year completed may be maintained without time limitations.
2 Section 10. Children's rights. The rights of parents regarding education records under
3 FERPA and 707 KAR Chapter 1 shall be transferred to the child at the age of eighteen
4 (18), unless the child has been declared incompetent under KRS Chapter 387 in a court of
5 law.